

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA, for the	)	
use of ROBERT J. CUMMINS, d/b/a BOB	)	
CUMMINS CONSTRUCTION	)	
COMPANY,	)	
	)	
Plaintiff,	)	Civil Action No. 20-197
	)	
v.	)	Judge Cathy Bissoon
	)	
ZURICH AMERICAN INSURANCE	)	
COMPANY, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Defendants' Motions *in Limine* ("MIL") are resolved as follows.

MIL 1 (**Doc. 62**) to exclude the testimony and opinions of Mr. McCall is **DENIED**. Just as with Defendants' expert witness, the Court perceives no issues as to Mr. McCall's qualifications, the reliability of his testimony or whether his testimony fits the dispute. And because, as an expert, Mr. McCall may rely on the historical record and his experience in the concrete industry, exclusion is not warranted under Fed. R. Evid. 403 either.

MIL 2 (**Doc. 63**) to preclude the testimony of Ms. Stack is **DENIED**. Plaintiff complied with Fed. R. Civ. P. 26(e)(1)(A) upon making Defendants aware of Ms. Stack's identity and her role, during Mr. Cummins's deposition.

MIL 3 (**Doc. 66**) to exclude testimonial and documentary evidence as to Plaintiff's claimed damages is **DENIED**. Defendants' arguments go to the weight of Plaintiff's evidence, not to its admissibility.

MIL 4 (**Doc. 67**) to exclude evidence of global settlement with the government is **DENIED**. The Court is not convinced that this evidence is within the ambit of Fed. R. Evid. 408(a). But even if it is, exclusion is not warranted under Fed. R. Evid. 408(b).

**IT IS SO ORDERED.**

January 16, 2022

s/Cathy Bissoon  
Cathy Bissoon  
United States District Judge

cc (via ECF email notification):  
All Counsel of Record